

Before the
Federal Communications Commission
Washington, D.C. 20554

GEN. Docket No. 87-551

In the Matter of

Amendment of Part 1 of the
Commission's Rules Concerning
Radiofrequency Radiation Compliance
of FM Booster Stations

REPORT AND ORDER

Adopted: December 9, 1988; Released: December 29, 1988

By the Commission:

BACKGROUND

1. On December 1, 1987, the Commission adopted a *Notice of Proposed Rule Making (NPRM)* regarding the potential environmental impact from radiofrequency (RF) radiation emitted from FM booster stations.¹ FM booster stations are a special class of FM translators that retransmit signals of a full service FM broadcast station to areas normally unable to receive satisfactory service from that station due to terrain obstructions. An FM booster station transmits on the frequency of its full service station and may provide service only to areas within the predicted service contour of the primary station.²

2. Until 1987, FM booster stations were limited to output powers of 10 watts or less. However, the Commission adopted a *Report and Order* amending Part 74 of the FCC's Rules and Regulations to permit substantial increases in the output power of these stations.³ The new regulations limit the operation of FM booster stations only to the extent that they may not extend service beyond their primary station's 1 mV/m predicted contour nor increase interference to co-channel or adjacent channel stations. The Commission also amended its television translator rules to establish a new television booster service. Under the new rules, licensees of full service television stations may be authorized to operate TV booster stations within their predicted Grade B service area in a manner similar to that allowed for FM boosters. The new rules adopted by the Commission went into effect on September 21, 1987.

3. Under the terms of the National Environmental Policy Act of 1969, the FCC is required to determine whether the transmitters it licenses or authorizes significantly affect the "quality of the human environment."⁴ Since the emission of potentially hazardous radiofrequency (RF) radiation is one of several possible environmental effects, the Commission has established rules for evaluating human exposure to RF radiation from FCC-regulated transmitters.⁵ This rule is found in Section 1.1307(b) of the FCC's Rules and Regulations.⁶

4. FM boosters licensed under Part 74, Subpart L, of the Commission's Rules were previously categorically excluded from evaluation under Section 1.1307(b).⁷ This exclusion was based on the low power limitations (1 or 10 watts depending on the zone in which the booster is located) previously placed on this class of transmitter. However, after those power limitations were relaxed we proposed to amend our Rules to revoke the categorical exclusion previously given to Subpart L. In the *NPRM*, we indicated that although, in general, it is unlikely that such stations would cause excessive environmental exposures to radiofrequency radiation, it no longer appeared justifiable to categorically exclude them. Therefore, we proposed to add Subpart L of Part 74 to the list of rule parts to which Section 1.1307(b) applies.

COMMENTS

5. The only comments filed in response to our *NPRM* were those filed by the National Association of Broadcasters (NAB). NAB supports our proposal to apply the RF radiation rule to FM booster stations. However, it points out that, as proposed, the rule change would apply to *all* transmitters licensed under Subpart L of Part 74. This would mean that low-powered FM translator stations would also be covered, although their power levels continue to be limited to 1 or 10 watts. NAB asks that the Commission only extend coverage of the RF radiation rule to FM boosters and that FM translators continue to be categorically excluded based on their low power levels. NAB also requests that the Commission provide broadcasters with several months notice prior to the effective date of the proposed rule change.

DISCUSSION

6. This *Report and Order* modifies Section 1.1307(b) of the FCC's rules in order to provide for evaluation of environmental RF radiation from FM booster stations. Due to the Commission's relaxation of power limitations on this class of stations it is no longer justifiable to categorically exclude them from environmental processing for potential human exposure to RF radiation. However, we agree with NAB that such evaluation should not be extended to FM translator stations whose power levels continue to be limited to 10 watts. Therefore, the rule amendment will only apply to FM boosters.

7. We have considered NAB's request to postpone the effective date of this rule amendment. However, we believe that only a moderate delay is necessary to allow licensees and applicants sufficient time to come into compliance with the requirements of Section 1.1307(b). Accordingly, the effective date will be 60 days after appearance of the summary of this Report and Order in the Federal Register.

8. Guidelines for determining whether a specific station is in compliance with the RF radiation rule can be obtained by reference to Technical Bulletin No. 65 published by the Commission's Office of Engineering and Technology.⁸

FINAL REGULATORY FLEXIBILITY ACT ANALYSIS⁹

9. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final regulatory flexibility analysis is as follows:

I. Need and purpose of this action:

This action is necessary to ensure FCC compliance with the National Environmental Policy Act (NEPA), and, specifically, to minimize the potential for significant environmental impact from radiofrequency (RF) radiation from FCC-regulated facilities. This order concerns RF radiation from FM booster stations.

II. Issues raised by the public in response to the Initial Regulatory Flexibility Act Analysis:

No comments were received addressing the Initial Regulatory Flexibility Analysis.

III. Significant alternatives considered and rejected:

Because of the FCC's legal obligations under NEPA, appropriate environmental evaluation must be undertaken with regard to significant sources of RF radiation under FCC jurisdiction. Therefore, the alternative of not taking any action with respect to environmental evaluation of FM booster stations has been rejected. The present course of action is considered to be a practical and reasonable way to minimize both environmental impact and administrative burden with respect to these facilities.

ORDERING CLAUSES

10. Accordingly, IT IS ORDERED that, effective March 6, 1989 Part 1 of the Commission's Rules and Regulations, Chapter I of Title 47 of the Code of Federal Regulations, IS AMENDED as set forth in the Appendix below and that this amendment will be applicable to applications filed on or after this effective date.

11. This action is taken pursuant to the provisions of Sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j) and 303(r), and Section 553 of the Administrative Procedure Act, 5 U.S.C. Section 553.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX

Part 1, Chapter I, of Title 47 of the Code of Federal Regulations is amended as follows:

Part 1 - Practice and Procedure

1. The authority citation for Part 1 continues to read:

Authority: Secs. 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

2. Section 1.1307, paragraph (b), is amended by revising the note as follows:

§1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.

* * * * *

(b) * * *

NOTE: Paragraph (b) shall apply to facilities and operations licensed or authorized under Parts 5, 25, 73, 74 [Subparts A, G, and L (FM boosters only)], and 80 (ship earth stations only). Facilities and operations licensed or authorized under all other Parts, Subparts, or Sections of the Commission's Rules shall be categorically excluded from consideration under paragraph (b), unless such exclusion is superseded by actions taken by the Commission under the provisions of paragraphs (c) or (d) of this Section.

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FOOTNOTES

¹ See *Notice of Proposed Rule Making*, Gen. Docket 87-551, 52 FR 49032 (1987), 2 FCC Rcd 7231 (1987).

² The rules for FM booster stations are set forth in Section 74, Subpart L, of the FCC's Rules and Regulations. See 47 CFR §§74.1201-1284.

³ See *Report and Order* in Docket No. 87-13, 52 FR 31398 (1987), 2 FCC Rcd 4625 (1987).

⁴ See 42 U.S.C. §§4321 *et seq.* (1976).

⁵ See *Report and Order*, Gen. Docket 79-144, 50 FR 11151 (1985), 100 FCC 2d 543 (1985); *Second Report and Order*, Gen. Docket 79-144, 52 FR 13240 (1987), 2 FCC Rcd 2064 (1987); and *Third Report and Order*, Gen. Docket 79-144, 53 FR 28223 (1988).

⁶ 47 CFR §1.1307(b).

⁷ See *Second Report and Order* (note 5 above).

⁸ OST Technical Bulletin No. 65 entitled "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation," published in 1985 by the FCC's Office of Science and Technology (now Office of Engineering and Technology). Available from the National Technical Information Service (NTIS), (800) 336-4700. Order number is: PB 86-127081. Copies may also be purchased from the Commission's

contractor for public records duplication, International Transcription Services, Inc., 2100 M Street, N.W., Washington, D.C., (202) 857-3800.

⁹ This analysis is made pursuant to the provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. §604.